2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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The right to the peaceful uses of nuclear energy

Working paper submitted by Algeria

1. The right to use nuclear energy for peaceful purposes is a fundamental pillar of the Treaty on the Non-Proliferation of Nuclear Weapons. Article IV of the Treaty recognizes the right of all Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II. The 1995 and 2000 Review Conferences reaffirmed this right.

2. It is urgent and vital to promote and expand the peaceful uses of nuclear energy in conformity with articles I, II and III. Increasingly, the use of nuclear energy for peaceful power and non-power purposes is becoming a strategic resource, which is necessary to meet the demands of global socio-economic development. Nuclear energy is a clean, sustainable, economic and viable resource that can complement or be an alternative to fossil fuel, and a strategic option for diversifying sources of energy production designed to ensure energy security. Other peaceful applications of nuclear energy also contribute to the development of other strategic sectors such as health, agriculture, water resources, etc.

3. The Review Conference should reaffirm the inalienable right of all States parties to the peaceful use of nuclear energy, which, along with safety and security, constitutes the foundation of nuclear energy development. In that regard, the Conference should urge developed States parties to encourage developing countries to acquire, without hindrance, the scientific knowledge and infrastructures necessary for the use of nuclear energy for peaceful power and non-power purposes, as well as nuclear applications in order to meet their socio-economic needs.

4. International cooperation in the peaceful uses of nuclear technology is crucial for facilitating the access of developing countries to the equipment, materials and scientific and technological information necessary for the peaceful uses of nuclear energy.

5. In accordance with its statute, the International Atomic Energy Agency (IAEA) has a central role to play in promoting and developing the peaceful uses of nuclear energy and research in this field by fostering scientific and technical exchanges on the peaceful uses and applications necessary for socio-economic development. The

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Technical Cooperation Programme of IAEA is the appropriate framework for promoting this activity.

6. The role of IAEA in the area of technical cooperation to promote and develop peaceful uses of nuclear energy and research in this field should be strengthened. To that end, the Conference should urge States parties, especially the developed countries, to increase IAEA resources and strengthen its technical and financial capabilities by endowing it with adequate, reliable and predictable funding so that it can carry out its cooperation activities to promote power and non-power applications.

7. In addition, every effort must be made to maintain a balance among the three main activities of IAEA so as to promote the Technical Cooperation Programme, in order to respond to the needs of developing countries.

8. A country's choice concerning the peaceful uses of nuclear energy is a national decision. The Conference should reaffirm this principle, which was agreed to at the 2000 Review Conference, whereby each country's choices and decisions in the field of peaceful uses of nuclear energy should be respected without jeopardizing its policies or international cooperation agreements and arrangements for peaceful uses of nuclear energy and its fuel-cycle policies.

9. The Non-Proliferation Treaty is the appropriate and agreed framework for reconciling the inalienable right to the peaceful uses of nuclear energy and the need to ensure non-proliferation of nuclear weapons, and nuclear safety and security. Nothing in the Treaty should be interpreted in such a way as to compromise the exercise of this right, as long as non-proliferation and security norms are respected. Concerns about the proliferation of nuclear weapons, especially in the context of the increased use of nuclear energy for civilian purposes, should not serve as a pretext to limit the scope of the right to the peaceful uses of nuclear energy, which is guaranteed by article IV of the Treaty and the IAEA statute. The spread of nuclear technology and knowledge for peaceful purposes should not be equated to or confused with the proliferation of nuclear weapons.

10. In that context, export control should not lead to the establishment of a discriminatory and selective regime which would impose restrictions on the transfer of nuclear materials, equipment and technology to developing countries. Rules and restrictions on transfers of technology and nuclear export controls, which are imposed on non-nuclear-weapon States parties to the Treaty, especially developing countries, with the aim of preventing proliferation, could make it difficult, if not impossible, for them to acquire nuclear equipment which sometimes falls under the elastic category of "dual-use technology". Such discriminatory and selective measures completely undermine the inalienable right guaranteed by article IV to have access to nuclear power for peaceful purposes without discrimination, in accordance with articles I, II and III. They are contrary to the provisions of paragraph 2 of article IV of the Treaty, which urge States parties to facilitate the fullest possible exchange of equipment, materials and scientific and technological information for peaceful uses.

11. Similarly, initiatives to promote multilateral nuclear fuel cycle arrangements to prevent nuclear proliferation could lead to a reinterpretation of the provisions of article IV that would limit the scope of the inalienable right to develop research, production and use of nuclear energy for peaceful purposes without discrimination,

in conformity with articles I and II. Such an approach might create yet another dichotomy between the States that already possess the necessary means to develop and control the fuel cycle and those that do not, mostly developing countries.

12. Non-nuclear-weapon States cannot legitimately accept unilateral interpretations or actions aimed at limiting their right to acquire nuclear technologies for peaceful purposes without discrimination. The best way to establish the necessary balance between the right to peaceful uses and the need for nuclear security and safety would be to adopt common, universal, transparent, objective and politically neutral standards.

13. IAEA and its safeguards regime continue to be the legal framework which ensures the fulfilment of non-proliferation obligations by non-nuclear-weapon States under safeguards agreements, as set forth in paragraph 1 of article III. In addition, there are grounds, where appropriate, to design IAEA mechanisms, agreed upon by all, with a view to promoting the transparency of nuclear programmes.

14. In that connection, it should be emphasized that in accordance with the provisions of paragraph 3 of article III, the safeguards for verifying the fulfilment of obligations assumed by non-nuclear-weapon States should comply with article IV. They should not hamper economic or technological development of the States parties. They should also not stand in the way of international cooperation in the field of peaceful nuclear activities, including the international exchanges of nuclear materials and equipment for peaceful purposes.

15. A mechanism capable of ensuring compliance with the necessary safety and security standards will be vital to the peaceful uses of nuclear energy and the establishment of facilities for that purpose.

16. In that context, countries which have initiated or are planning to initiate civilian nuclear activities should have adequate human, material and technical resources, as well as an appropriate legal framework for handling issues related to the safety and security of civilian nuclear materials and facilities and preventing terrorist groups from gaining access to such materials.

17. In that regard, the Conference should encourage States parties to sign IAEA instruments on the safety and security of nuclear facilities and materials and of radioactive materials, radiation protection and the safety of radioactive waste.

18. In addition, States parties should have in place early notification and assistance mechanisms in the event of a nuclear accident or radiological emergency. To that end, the Conference should encourage States to become parties to the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, as well as to instruments on liability in the event of a nuclear accident.

19. The Conference should support IAEA activities in the area of safety and security and encourage international cooperation with IAEA, in particular with a view to strengthening national infrastructures for the regulation and control of radioactive sources and safety and security standards.